

**BILL NO. 00-25
AS AMENDED**

**COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND**

BILL NO. 00-25

Introduced by Council President Hirsch at the request of the County Executive

Legislative Session Day No. 00-21

Date: June 20, 2000

AN ORDINANCE approving and providing for authorization for Harford County, Maryland to enter into an agreement to acquire, pursuant to a multi-year Installment Purchase Agreement the real property and improvements thereon in 230.5 acres of land located on Smith Lane, Benson, Maryland and all development rights therein except one development right which shall be retained by the Owner from Francis G. Smith and Edith Virginia Smith, or any other owner thereof for a maximum purchase price of \$2,128,150.00; providing that the County's obligation to pay such purchase price and interest thereon shall be a full faith and credit general obligation of the County; providing for the levying of taxes for such payments; authorizing the County Executive to make modifications in such Agreement under certain circumstances; and providing for and determining various matters in connection therewith.

By the Council, June 20, 2000

Introduced, read first time, ordered posted and public hearing scheduled

on: August 8, 2000

at: 7:45 p.m.

By Order: James E. Massey, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on August 8, 2000, and concluded on August 8, 2000.

James E. Massey, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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RECITALS

In accordance with the provisions of Section 524 of the Charter of Harford County (the "Charter"), the Annual Budget and Appropriation Ordinance of Harford County, Maryland (the "County") for fiscal year ending June 30, 2001, Bill No. 00-16, As Amended (the "Budget Ordinance") includes projects permitting the County to acquire real estate located within the County for utilization by the Department of Parks and Recreation, which Budget Ordinance was adopted by the County Council of Harford County, Maryland (the "County Council"), in accordance with the Charter.

Section 520 of the Charter provides that "any contract, lease or other obligation in excess of three thousand dollars (\$3,000) requiring the payment of funds from the appropriations of a later fiscal year shall be authorized by legislative act, and Section 524 of the Charter provides that the County may incur debt.

The County has determined to enter into an Installment Purchase Agreement with ~~Francis G. Smith~~ and Edith Virginia Smith, or any other person who is or becomes the owner of all or any portion of the Land (hereinafter defined) prior to execution and delivery of such Agreement, in order to acquire approximately 230.5 acres, more or less, of land located on Smith Lane, Benson, Maryland within the County for an aggregate purchase price not in excess of \$2,128,150.00, plus interest thereon, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE:

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1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY,

2 MARYLAND, That

3 (a) The County Executive of Harford County, Maryland (the "County") is
4 authorized to enter into an agreement to acquire by Installment Purchase Agreement (the
5 "Installment Purchase Agreement") with ~~Francis G. Smith and~~ Edith Virginia Smith and or any
6 person who is or becomes the owner of all or any portion of the Land (hereinafter defined) prior to
7 the execution and delivery of the Installment Purchase Agreement (the "Seller"), approximately
8 230.5 acres of land, more or less, located on Smith Lane, Benson, Maryland and all development
9 rights therein except one development right which shall be retained by the Owner within the County
10 (the "Land"), for an aggregate purchase price not in excess of \$2,128,150.00 (the "Purchase Price"),
11 plus interest thereon; provided, however, in the event that a current survey of the land indicates that
12 the land includes less than 220 acres, the purchase price shall be reduced by the product of \$9,232.75
13 times the number of acres in the Land which are less than 220.

14 (b) The Installment Purchase Agreement shall be in substantially the form
15 attached hereto as Exhibit A and made a part hereof, and in such form the Installment Purchase
16 Agreement is hereby approved as to form and content. The Installment Purchase Agreement shall
17 be dated as of the date of its execution and delivery by the County and the Seller (the "Closing
18 Date");

19 (c) A portion of the Purchase Price, in the amount determined by Agreement of the
20 County and Francis G. Smith and Edith Virginia Smith, shall be paid in cash on the Closing Date.

21 The balance of the Purchase Price shall be paid to the Seller in each year (not more frequently than

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1 semi-annually) thereafter to and including a date not more than five (5) years after the Closing Date.

2 The dates on which each such installment is payable shall be determined by the County Executive
3 and the Treasurer and shall be inserted in the form of the Installment Purchase Agreement attached
4 hereto as Exhibit A;

5 (d) Interest on the unpaid balance of the Purchase Price shall accrue from the
6 Closing Date and shall be payable at least annually in each year, commencing on the first of such
7 dates to follow the Closing Date and continuing to and including a date not more than five (5) years
8 after the Closing Date at an interest rate equal to five percent (5%) per annum;

9 (e) The County's obligation to make payments of the Purchase Price under the
10 Installment Purchase Agreement and to pay interest thereon is and shall be a general obligation of
11 the County and is and shall be made upon its full faith and credit.

12 SECTION 2. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD
13 COUNTY, MARYLAND,

14 That it is hereby found and determined that:

15 (a) The acquisition of the Land as set forth in Section 1 of this Ordinance and in
16 the form of the Installment Purchase Agreement attached hereto as Exhibit A is in the best interests
17 of the County;

18 (b) The Installment Purchase Agreement is a contract providing for the payment
19 of funds at a time beyond the fiscal year in which it is made and requires the payment of funds from
20 appropriations of later fiscal years;

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1 (c) Funds for the payment of the Purchase Price under the Installment Purchase
2 Agreement are included in the Budget Ordinance, As Amended;

3 (d) The County shall acquire the Land;

4 (e) The Purchase Price is within the legal limitation on the indebtedness of the
5 County as set forth in Article 25A, Section 5(P) of the Annotated Code of Maryland;

6 (f) The cost of acquiring the Land is equal to the Purchase Price;

7 (g) The only practical way to acquire the Land is by private negotiated agreement
8 between the County and the Seller.

9 SECTION 3. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD
10 COUNTY, MARYLAND, That the Installment Purchase Agreement shall be signed by the County
11 Executive of the County (the "County Executive") by his manual signature, and the Installment
12 Purchase Agreement shall bear the corporate seal of the County, attested by the manual signature
13 of the Director of Administration of the County (the "Director of Administration"). In the event that
14 any officer whose signature shall appear on the Installment Purchase Agreement shall cease to be
15 such officer before the delivery of the Installment Purchase Agreement, such signature shall
16 nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in
17 office until delivery.

18 SECTION 4. AND BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF
19 HARFORD COUNTY, MARYLAND, That the County Executive and the Treasurer are hereby
20 authorized, prior to execution and delivery of the Installment Purchase Agreement, to make such
21 changes or modifications in the form of the Installment Purchase Agreement attached hereto as

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Exhibit A as may be required or deemed appropriate by them in order to accomplish the purpose of the transaction (including, but not limited to, determining the portion of the Purchase Price to be paid in cash on the Closing Date and establishment of interest and principal payment dates in each year that the Installment Purchase Agreement is outstanding) authorized by this Ordinance; provided that such changes shall be within the scope of the transaction authorized by this Ordinance and the execution of the Installment Purchase Agreement by the County Executive shall be conclusive evidence of the approval by the County Executive of all changes or modifications in the form of the Installment Purchase Agreement and shall thereupon become binding upon the County in accordance with its terms, as authorized by Section 524 of the Charter and this Ordinance.

SECTION 5. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the County Executive, the Director of Administration, the Treasurer of the County and other officials of the County are hereby authorized and empowered to do all such acts and things and to execute, acknowledge, seal and deliver such documents (including a Tax Certificate and Compliance Agreement) and certificates as the County Executive may determine to be necessary to carry out and comply with the provisions of this Ordinance subject to the limitations set forth in the Charter and Article 25A and any limitations set forth in this Ordinance.

SECTION 6. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND, That the Treasurer of the County is hereby designated and appointed as registrar and paying agent for the Installment Purchase Agreement (the "Registrar"). The Registrar shall maintain, or cause to be maintained, books of the County for the registration and transfer of ownership of the Installment Purchase Agreement. In addition, the County may, from time to time,

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1 designate and appoint the Department of the Treasury of the County, any officer or employee of the
2 County or one or more banks, trust companies, corporations or other financial institutions to act as
3 a substitute or alternate registrar or paying agent for the Installment Purchase Agreement, and any
4 such substitute or alternate shall be deemed to be the Registrar or an alternate Registrar for all
5 purposes specified in the resolution appointing such substitute or alternate. Any such appointment
6 shall be made by the County Council by resolution and the exercise of such power of appointment,
7 no matter how often, shall not be an exhaustion thereof.

8 SECTION 7. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD
9 COUNTY, MARYLAND, That for the purpose of paying the installments of the Purchase Price
10 when due and payable and the interest on the unpaid portion of the Purchase Price when due and
11 payable, there is hereby levied, and there shall hereafter be levied in each fiscal year that any portion
12 of the Purchase Price payable under the Installment Purchase Agreement remains outstanding, *ad*
13 *valorem* taxes on real and tangible personal property and intangible property subject to taxation by
14 the County, without limitation of rate or amount, and, in addition, upon such other intangible
15 property as may be subject to taxation by the County within limitations prescribed by law, in an
16 amount sufficient, together with other available funds, to pay any installment of the Purchase Price
17 under the Installment Purchase Agreement maturing during the succeeding year and to pay the
18 annual interest on the outstanding balance of the Purchase Price until all of the Purchase Price under
19 the Installment Purchase Agreement and such interest have been paid in full; and the full faith and
20 credit and the unlimited taxing power of the County are hereby irrevocably pledged to the punctual

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1 payment of the Purchase Price under the Installment Purchase Agreement and the interest on the
2 unpaid balance of the Purchase Price as and when the same respectively become due and payable.

3 SECTION 8. BE IT FURTHER ENACTED BY THE COUNTY COUNCIL OF HARFORD
4 COUNTY, MARYLAND, That this Ordinance shall take effect sixty (60) calendar days after it
5 becomes law.

6 EFFECTIVE: October 10, 2000

7 The Council Administrator of the Council does hereby
8 certify that fifteen (15) copies of this Bill are immediately
9 available for distribution to the public and the press.

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Council Administrator

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EXHIBIT A

Form of Installment Purchase Agreement

**BILL NO. 00-25
AS AMENDED**

FRANCIS G. SMITH

and

EDITH VIRGINIA SMITH,

the Seller

and

HARFORD COUNTY, MARYLAND,

the County

INSTALLMENT PURCHASE AGREEMENT
(PARKS AND RECREATION)

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INSTALLMENT PURCHASE AGREEMENT
(PARKS AND RECREATION)

THIS INSTALLMENT PURCHASE AGREEMENT is made as of the ____ day of _____, 2000 between FRANCIS G. SMITH and EDITH VIRGINIA SMITH (the "Seller") and HARFORD COUNTY, MARYLAND, a body politic and corporate of the State of Maryland (the "County").

RECITALS

A. Pursuant to and in accordance with Sections 520 and 524 of the Harford County Charter, as amended (the "Authorizing Act"), the County is authorized to incur indebtedness which extends beyond the current fiscal year, by legislative act.

B. The Seller is the owner in fee simple of certain agricultural real property located in Harford County, Maryland and more particularly described in Exhibit A attached hereto (hereinafter defined) (the "Land"). The Seller has offered to sell to the County the Land and the County has accepted such offer, all upon and subject to the conditions set forth in this Agreement.

C. The County will receive all except one of the Seller's development rights in the Land as part of the purchase price. The Seller will retain one development right.

D. This transaction is authorized by Bill No. 00-25, adopted by the County Council of the County _____, 2000, signed by the County Executive of the County on _____, 2000, effective _____, 2000.

E. The Seller and Francis G. Smith, her husband, owned the Land as tenants by the entirety, until the death of Francis G. Smith.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Seller and the County hereby agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.1. Definitions. As used in this Agreement, the following terms have the following meanings, unless the context clearly indicates a different meaning:

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"Business Day" or "business day" means a day on which (a) banks located in each of the cities in which the principal office of the County or the Registrar is located are not required or authorized by law or executive order to close for business, and (b) The New York Stock Exchange is not closed.

"Closing Date" means _____, 2000, the date of execution and delivery of this Agreement by the parties.

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to the Code herein shall be deemed to include the United States Treasury Regulations in effect or proposed from time to time with respect thereto.

"County" means Harford County, Maryland, a body politic and corporate and a political subdivision created and existing under and by virtue of the Constitution and laws of the State, its successors and assigns.

"County Council" means the County Council of Harford County, Maryland.

"County Executive" means the County Executive of Harford County, Maryland.

"Deed" means the Deed dated _____, 2000, from the Seller to the County, which shall convey the Land and all except one of the Development Rights to the County in perpetuity, substantially in form attached hereto as Exhibit A.

"Development Rights" means the rights of the Seller in the Land to develop the Land for any purpose.

"Enabling Legislation" means, collectively, (1) Section 524 of the Harford County Charter and (2) Bill No. 00-_____ passed by County Council on _____, _____, approved by the County Executive on _____, _____, and effective _____, _____.

"Interest Payment Date" means _____ and _____ in each year commencing _____, _____.

"Land" means the tract of land and improvements thereon, located in Harford County, Maryland, containing approximately 230.5 acres, and more particularly described in Exhibit A attached hereto and made a part thereof and by reference a part hereof.

"Permitted Encumbrances" means the encumbrances listed on Exhibit B attached hereto and made a part hereof and any encumbrances on or with respect to the Land or any portion thereof hereafter approved by the County.

"Person" or "person" means any natural person, firm, association, corporation, company, trust, partnership, public body or other entity.

"Purchase Price" means _____ (\$ _____), the purchase price to be paid by the County to the Registered Owner in accordance with this Agreement.

"Registered Owner" means the registered owner of this Agreement as shown on the registration books maintained by the Registrar.

"Registrar" means the Treasurer of the County, or any other person hereafter appointed by the County to act as Registrar and paying agent for this Agreement.

"Seller" means ~~Francis G. Smith and Edith Virginia Smith, and the survivor of them, their respective heirs, personal representatives, and assigns,~~ and any other person who becomes the owner of the Land.

"State" means the State of Maryland.

SECTION 1.2. Rules of Construction. The words "hereof", "herein", "hereunder", "hereto", and other words of similar import refer to this Agreement in its entirety.

The terms "agree" and "agreements" contained herein are intended to include and mean "covenant" and "covenants".

References to Articles, Sections, and other subdivisions of this Agreement are to the designated Articles, Sections, and other subdivisions of this Agreement.

The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

All references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well.

ARTICLE II

SALE AND PURCHASE OF DEVELOPMENT RIGHTS

SECTION 2.1. Agreement to Sell and Purchase Development Rights. The Seller agrees to sell the Land and all ~~except one of the~~ Development Rights to the County and the County agrees to purchase the Land and the Development Rights from the Seller on the date hereof for a purchase

price of \$ _____ (the "Purchase Price"). One Development Right shall be retained by the Seller.

SECTION 2.2. Delivery of Deed. In order to evidence the sale of the Land and all except one of the Development Rights to the County, the Seller shall execute and deliver to the County on the Closing Date the Deed. The Deed shall be recorded among the Land Records of Harford County, Maryland. One Development Right shall be retained by the Seller.

ARTICLE III

PAYMENT OF PURCHASE PRICE

SECTION 3.1. Payment of Purchase Price.

(a) The County shall pay a portion of the Purchase Price in the amount of _____ Dollars (\$ _____) to the Seller on the Closing Date and shall pay the balance of the Purchase Price to the Registered Owner in installments on _____, _____ and semi-annually thereafter on the _____ day of _____ and _____ of each year thereafter to and including _____, _____ (each an "Installment Payment Date"), in the amounts set forth in Schedule I attached hereto and made a part hereof.

(b) Interest on the unpaid balance of the Purchase Price shall accrue from the date hereof and shall be payable to the Registered Owner on _____, _____ and semi-annually thereafter on the Installment Payment Date in each year to and including _____, _____ at the rate of 5% per annum.

(c) Both the installments of the Purchase Price and the interest on the unpaid balance thereof are payable in lawful money of the United States of America, at the time of payment.

(d) Payment of interest on the unpaid balance of the Purchase Price shall be made by the County on each Interest Payment Date to the Registrar. Payments of the principal installments of the Purchase Price shall be made on each Installment Payment Date to the Registrar. The Registrar shall forward all such payments (other than the final installment of the Purchase Price) to the person appearing on the books of the County maintained by the Registrar as the Registered Owner, by check or draft mailed to the Registered Owner at the address of the Registered Owner as it appears on such registration books or, if the Registered Owner is a trustee who has issued certificates of participation in this Agreement, by wire transfer to such Registered Owner to the bank account number on file with the Registrar on the tenth day before the applicable Interest Payment Date or Installment Payment Date, or if such tenth day is not a Business Day, the Business Day next preceding such day. The final installment of the Purchase Price shall be paid by the Registrar to the Registered Owner upon presentation and surrender of this Agreement at the office of the Registrar.

(e) The County's obligation to make payments of the Purchase Price hereunder and to pay interest on the unpaid balance of the Purchase Price is a general obligation of the County, and the full faith and credit and the taxing power of the County are irrevocably pledged to the punctual payment of the Purchase Price and the interest on the unpaid balance of the Purchase Price as and when the same respectively become due and payable.

SECTION 3.2. Registration and Transfer of this Agreement.

(a) Until the Purchase Price and all interest thereon have been paid in full, the Registrar, on behalf of the County, shall maintain and keep at the offices of the Registrar, registration books for the registration and transfer of this Agreement. The ownership of this Agreement may not be transferred or assigned, except upon the written approval of the County.

(b) The original Seller is the original Registered Owner. This Agreement shall be transferable only upon the written approval of the County and upon the books of the County maintained for such purpose by the Registrar, at the written request of the Registered Owner as then shown on such registration books or his attorney duly authorized in writing, upon presentation and surrender thereof, together with a written instrument of transfer substantially in the form attached hereto as Exhibit C, or as may otherwise be satisfactory to and approved by the Registrar in writing, duly executed by the Registered Owner or his attorney duly authorized in writing. Upon the surrender for transfer of this Agreement, the Registrar shall complete the Schedule of Transferees attached hereto as Exhibit D with the name, address and tax identification number of the transferee Registered Owner, the date of the transfer and the outstanding principal balance of the Purchase Price as of the date of transfer; provided, however, that if there is any conflict between the information set forth in Exhibit D hereto and the registration books maintained by the Registrar, the information shown on such registration books shall control.

The County and the Registrar may deem and treat the person in whose name this Agreement is registered upon the books of the County maintained by the Registrar as the absolute owner of this Agreement, whether any payments hereunder shall be overdue or not, for the purpose of receiving payment of, or on account of, the Purchase Price and interest thereon and for all other purposes, and all such payments so made to any such Registered Owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon this Agreement to the extent of the sum or sums so paid, and neither the County nor the Registrar shall be affected by any notice to the contrary.

For every registration of transfer of this Agreement, the County or the Registrar may make a charge sufficient to reimburse themselves for any tax or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such transfer as a condition precedent to the exercise of the privilege of registering such transfer.

SECTION 3.3. Mutilated, Lost, Stolen or Destroyed Agreement. In the event that this Agreement is mutilated, lost, stolen or destroyed, the County and the Registered Owner (as then shown on the registration books maintained by the Registrar) shall execute a substitute for this Agreement having the same terms as that of this Agreement mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Agreement, such mutilated Agreement shall first be surrendered to the Registrar, and, in the case of any lost, stolen or destroyed Agreement there shall be first furnished to the County and the Registrar evidence of such loss, theft or destruction satisfactory to the County and the Registrar, together with indemnity satisfactory to each of them in their sole discretion. The County and the Registrar may charge the Registered Owner requesting such new Agreement their expenses and reasonable fees, if any, in this connection. If after the delivery of such substitute Agreement, a bona fide purchaser of the original Agreement (in lieu of which such substitute Agreement was issued) presents for payment such original Agreement, the County and the Registrar shall be entitled to recover such substitute Agreement from the person to whom it was delivered or any other person who receives delivery thereof, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor or otherwise to the extent of any loss, damage, cost or expense incurred by the County and the Registrar in connection therewith.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

SECTION 4.1. Representations and Warranties of the County. The County makes the following representations and warranties:

(a) The County is a body politic and corporate and a political subdivision of the State.

(b) The County has the necessary power and authority to acquire the Land and Development Rights, to enter into this Agreement, to perform and observe the covenants and agreements on its part contained in this Agreement and to carry out and consummate all transactions contemplated hereby. By proper action, the County has duly authorized the execution and delivery of this Agreement.

(c) This Agreement has been duly and properly authorized, executed, sealed and delivered by the County, constitutes the valid and legally binding obligation of the County, and is enforceable against the County in accordance with its terms.

(d) There are no proceedings pending or, to the knowledge of the County, threatened before any court or administrative agency which may affect the authority of the County to enter into this Agreement.

SECTION 4.2. Representations and Warranties of the Original Seller. The original Seller makes the following representations and warranties ~~with respect to himself~~, but not with respect to any transferee Seller:

(a) The Seller has full power and authority to execute and deliver this Agreement and the Deed, and to incur and perform the obligations provided for herein and therein. No consent or approval of any person or public authority or regulatory body is required as a condition to the validity or enforceability of this Agreement or the Deed, or, if required, the same has been duly obtained.

(b) This Agreement and the Deed have been duly and properly executed by the Seller, constitute valid and legally binding obligations of the Seller, and are fully enforceable against the Seller in accordance with their respective terms.

(c) There is no litigation or proceeding pending or, so far as the Seller knows, threatened before any court or administrative agency which, in the opinion of the Seller, will materially adversely affect the authority of the Seller to enter into, or the validity or enforceability of, this Agreement or the Deed.

(d) There is (i) no provision of any existing mortgage, indenture, contract or agreement binding on the Seller or affecting the Land, (ii) to the knowledge of the Seller, no provision of law or order of court binding upon the Seller or affecting the Land, which would conflict with or in any way prevent the execution, delivery, or performance of the terms of this Agreement or the Deed, or which would be in default or violated as a result of such execution, delivery or performance, or for which adequate consents, waivers or, if necessary, subordinations, have not been obtained, and (iii) no hazardous material (including any substance that is or becomes defined as a "hazardous substance", "hazardous waste", "hazardous material", pollutant or contaminant under the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, the Superfund Amendments and Reauthorization Act, as amended, the Resource Conservation and Recovery Act, as amended, any analogous or applicable Maryland law) and/or petroleum has been disposed of, spilled, leaked, stored, generated or released in the soil, surface water or ground water.

(e) The Land and all except one of the Development Rights therein shall be conveyed by the Seller to the County, free and clear of all encumbrances. The Seller shall retain one Development Right to be used by the Seller in accordance with the Charter and Code of the County.

(f) There exist no liens or security interests on or with respect to the Land (other than Permitted Encumbrances), or such liens or security interests will be released or subordinated to the Development Rights.

(g) The Seller is not a nonresident alien of the United States of America for purposes of federal income taxation.

(h) The Social Security Numbers of the Sellers are is _____ and _____ Seller shall, upon request of the County, execute Treasurer Form W-9 and deliver the same to the County for filing.

The representations in subsections (g) and (h) above are made under penalties of perjury and the information contained therein may be disclosed by the County to the Internal Revenue Service. The Seller acknowledges that any false statement in such subsections could be punished by fine, imprisonment or both.

ARTICLE V

PROVISIONS RELATING TO EXCLUSION OF INTEREST FROM INCOME FOR FEDERAL INCOME TAXATION

SECTION 5.1. Intent of County and Tax Covenant of County. The County intends that the interest payable under this Agreement shall not be includible in the gross income of the Registered Owner for purposes of federal income taxation pursuant to Section 148 of the Code. Accordingly, the County shall not knowingly take or permit to be taken any other action or actions or omit or fail to take any action, which would cause this Agreement to be an "arbitrage bond" within the meaning of Section 148 of the Code, or which would otherwise cause interest payable under this Agreement to become includible in the gross income of any Registered Owner for purposes of federal income taxation pursuant to Section 148 of the Code.

SECTION 5.2. Acknowledgment of Seller with Regard to Tax Consequences of Transaction. The Seller has received an opinion from Miles & Stockbridge, a Professional Corporation, Bond Counsel, dated the date hereof, to the effect that under existing laws, regulations, rulings and decisions, interest payable under this Agreement is not includible in the gross income of the Seller for federal income tax purposes, which opinion assumes continuous compliance with certain covenants in the Tax Certificate and Compliance Agreement to be executed and delivered by the County on the date of delivery of this Agreement and is otherwise limited in accordance with its terms. The Seller acknowledges that they have made their own independent investigation and have consulted with attorneys, accountants and others selected by the Seller in the Seller's sole discretion with respect to all other tax considerations related to the transaction contemplated hereby (including, but not limited to, installment sales treatment under Section 453 of the Code, charitable contribution deductions under Section 170 of the Code, and federal estate tax implications); and the Seller certifies that the Seller has not looked to or relied upon the County or any of its officials, agents or employees, or to Bond Counsel, with respect to any of such matters.

ARTICLE VI

THE REGISTRAR

SECTION 6.1. Appointment of Registrar. The Treasurer of the County, is hereby designated and appointed to act as Registrar for this Agreement.

SECTION 6.2. Change of Registrar and Appointment of Successor Registrar. The County shall have the right, subject to the terms of any agreement with the Registrar, to change the Registrar at any time by filing with the Registrar to be removed, and with the Registered Owner, an instrument in writing. Notwithstanding the foregoing, such removal shall not be effective until a successor Registrar has assumed the Registrar's duties hereunder.

SECTION 6.3. Qualifications of Successor Registrar. Any successor Registrar shall be either (a) the Treasurer of the County, (b) an officer or employee of the County, or (c) a bank, trust company or other financial institution duly organized under the laws of the United States or any state or territory thereof which is authorized by law and permitted under the laws of the State to perform all the duties imposed upon it as Registrar by this Agreement.

SECTION 6.4. Successor by Merger or Consolidation. If the Registrar is a bank, trust company or other financial institution, any institution or corporation into which the Registrar hereunder may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Registrar hereunder shall be a party or any institution or corporation succeeding to the corporate trust business (if any) of the Registrar, shall be the successor Registrar under this Agreement, without the execution or filing of any paper or any further act on the part of the parties hereto, anything in this Agreement to the contrary notwithstanding.

ARTICLE VII

MISCELLANEOUS

SECTION 7.1. Successors of County. In the event of the dissolution of the County, all the covenants, stipulations, promises and agreements in this Agreement contained, by or on behalf of, or for the benefit of, the County, the Seller, any other Registered Owner and the Registrar, shall bind or inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County shall be transferred.

SECTION 7.2. Parties in Interest. Except as herein otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person, firm or corporation, other than the County, the Seller, any other Registered Owner and the Registrar,

any right, remedy or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County, the Seller, any other Registered Owner from time to time of this Agreement and the Registrar.

SECTION 7.3. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns, including, without limitation, all Registered Owners from time to time of this Agreement.

SECTION 7.4. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement and this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.

SECTION 7.5. Prior Agreements Canceled; No Merger. This Agreement shall completely and fully supersede all other prior agreements, both written and oral, between the County and the Seller relating to the acquisition of the Development Rights. Neither the County nor the Seller shall hereafter have any rights under such prior agreements but shall look solely to this Agreement (including an agreement substantially in the form attached hereto as Exhibit E between the County and the Seller, which the County Executive is authorized to execute on behalf of the County, with such changes, additions and amendments as the County Executive determines to be in the best interests of the County) and the Deed for definitions and determination of all of their respective rights, liabilities and responsibilities relating to the Land, the Development Rights and the payment for the Development Rights. In addition, this Agreement (and the final form of all Exhibits) shall survive the execution and recording of the Deed in all respects and shall not be merged therein.

SECTION 7.6. Amendments, Changes and Modifications. This Agreement may not be amended, changed, modified, altered or terminated except by an agreement in writing between the County and the then-Registered Owner. An executed counterpart of any such amendment shall be attached to this Agreement and shall be binding upon such Registered Owner and all successor Registered Owners.

SECTION 7.7. No Personal Liability of County Officials. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, officer, agent or employee of the County in his or her individual capacity, and neither the officers or employees of the County nor any official executing this Agreement shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the issuance thereof.

SECTION 7.8. Governing Law. The laws of the State shall govern the construction and enforcement of this Agreement.

SECTION 7.9. Notices. Except as otherwise provided in this Agreement, all notices, demands, requests, consents, approvals, certificates or other communications required under this Agreement to be in writing shall be sufficiently given and shall be deemed to have been properly

given three Business Days after the same is mailed by certified mail, postage prepaid, return receipt requested, addressed to the person to whom any such notice, demand, request, approval, certificate or other communication is to be given, at the address for such person designated below:

County: Harford County, Maryland
County Office Building
220 South Main Street
Bel Air, Maryland 21014
Attention: Treasurer

with a copy to: A. Frank Carven, III, Esquire
County Attorney
County Office Building
220 South Main Street
Bel Air, Maryland 21014

Seller: ~~Francis G. Smith and~~
Edith Virginia Smith
_____ Smith Lane
Benson, Maryland _____

Registrar: James M. Jewell, C.P.A.
Treasurer
County Office Building
220 South Main Street
Bel Air, Maryland 21014

Any of the foregoing may, by notice given hereunder to each of the others, designate any further or different addresses to which subsequent notices, demands, requests, consents, approvals, certificates or other communications shall be sent hereunder.

SECTION 7.10. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Agreement, shall not be a Business Day, such payment may, unless otherwise provided in this Agreement, be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Agreement, and in the case of payment no interest shall accrue for the period after such nominal date.

WITNESS the signatures and seals of the parties hereto as of the date first above written.

HARFORD COUNTY, MARYLAND

[COUNTY'S SEAL]

By: _____
James M. Harkins
County Executive

ATTEST:

John J. O'Neill, Jr.
Director of Administration

~~WITNESS:~~

FRANCIS G. SMITH (SEAL)

EDITH VIRGINIA SMITH (SEAL)

SELLER

SCHEDULE I

INSTALLMENTS OF
DEFERRED PORTION OF PURCHASE PRICE

Date of Payment

Amount Payable

Plus initial payment of purchase
price on _____, 2000

\$ _____

TOTAL

\$ _____

EXHIBIT A

FORM OF DEED

EXHIBIT B
TO INSTALLMENT
PURCHASE AGREEMENT

PERMITTED ENCUMBRANCES

EXHIBIT C
TO INSTALLMENT
PURCHASE AGREEMENT

ASSIGNMENT

FOR VALUE RECEIVED, ~~FRANCIS G. SMITH and~~ EDITH VIRGINIA SMITH
(the "Registered Owner"), subject to the approval of Harford County, Maryland, hereby sell[s],
assign[s] and transfer[s] unto _____, without
recourse, all of the Registered Owner's right, title and interest in and to the Installment Purchase
Agreement to which this Assignment is attached; and the Registered Owner's hereby irrevocably
directs the Registrar (as defined in such Agreement) to transfer such Agreement on the books kept
for registration thereof. The Registered Owner hereby represents, warrants and certifies that there
have been no amendments to such Agreement [except _____].

Date: _____

WITNESS OR ATTEST:

NOTICE: The signature on this
Assignment must correspond with of
the name of the Registered Owner
as it appears on the registration
books for the Installment Purchase
Agreement referred to herein in
every particular, without
alteration or enlargement or any change
whatever.

ADD NOTARY ACKNOWLEDGMENT

Transfer of the foregoing Installment Purchase Agreement, as indicated above is approved
this ____ day of _____, 19__.

Harford County, Maryland

By: _____
James M. Harkins
County Executive

EXHIBIT D

Schedule of Transferees

EXHIBIT E

Proposed form of Agreement, Final Form of Which Requires Signature of County and Seller.

DRAFTAGREEMENT OF SALE AND PURCHASE

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AGREEMENT OF SALE AND PURCHASE

THIS AGREEMENT OF SALE AND PURCHASE ("Agreement"), is made and executed, in duplicate, as of the ____ day of July, 2000, by and between EDITH VIRGINIA SMITH, of Harford County, Maryland, sometimes hereinafter referred to as the "Seller", of the first part, and HARFORD COUNTY, MARYLAND, a body corporate and politic of the State of Maryland, sometimes hereinafter referred to as the "Buyer", of the second part.

RECITALS

A. The Seller is the owner of a valuable, improved property, consisting of two (2) contiguous parcels or tracts of land, near Benson, in the Third Election District of Harford County, Maryland; the first thereof originally containing fifty-six and one-half (56 ½) acres, more or less, and the second thereof originally containing two hundred twenty-two (222) acres, more or less, but since reduced by approximately forty-four (44) acres of land heretofore acquired in part by the Maryland State Roads Commission in connection with its construction of the U. S. Route #1, Bel Air By-Pass and Winters Run Golf Club, thereby leaving an estimated present total of two hundred thirty and 5/10ths (230.5) acres of land, more or less (the "Property"), owned by the Seller, and being sold hereunder to the Buyer.

For title reference, see Deed from Zero, Inc. to Francis G. Smith and to Edith Virginia Smith, his wife, as tenants by the entirety, which Deed is recorded among the Land Records of Harford County, Maryland, in Liber G.R.G. No. 677, folio 500, et seq. The Property is further identified as Parcel Nos. 105 and 222 on Harford County Tax Map No. 48. On December 6, 1999, Francis G. Smith died, survived by the Seller (Edith Virginia Smith), who then became, and is now, the sole owner of the Property by operation of Maryland law.

B. Zoning & Development Rights.

The Property is presently zoned "AG" - Agricultural District. Based on her appraiser's Real Estate Appraisal Report, the Seller believes that the Property, if developed by her, would have a total of thirty-six (36) development rights and family conveyances.

C. For many years prior hereto, the late Francis G. Smith and

the Seller, and their family, have enjoyed living in the attractive and historic "Stone Home" on the Property (which home is surrounded by large trees), and the beauty of the Property as a working farm, with its woods, shrubbery, pastures, and open space. The Seller wishes to share that pleasure with others, particularly with Harford County residents living in or near the Town of Bel Air (the "Town"). Also, the Seller and Buyer have become increasingly aware that, as a result of the development of most of the farmland near the Town into residential subdivisions and for commercial purposes, there is now an acute need of land in the vicinity of Bel Air for farming, pasture, woods, and open space, as well as for recreational uses.

D. In connection with their consummation of the transaction hereinafter described, the parties note that the Legislature of the State of Maryland has authorized the "acquisition of interests in real property for preservation of open spaces and open areas" (see subsection 5-1202 of the Natural Resources Article of the Annotated Code of Maryland, as amended), which provides, in part, as follows:

"(a) *In general.* - Acquisition of interests or rights in real property for preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced. Any county, city, the Maryland-National Capital Park and Planning Commission, and the Department may acquire, by purchase, any inter vivos or testamentary gift, or lease, the fee or any lesser interest, or development right, necessary to achieve this end. Any county, city, the Maryland-National Capital Park and Planning Commission, and the Department also may purchase or acquire by contract or gift the fee to any property for the purpose of conveying or leasing the property back to its original owner or other person under covenants or other contractual arrangements which limit future use of the property in accordance with the purposes of this section. The county or city may not acquire any fee or any lesser interest in real property for these purposes by purchase or contract requiring a monetary consideration exceeding \$500, unless the governing body of the county or city after a public hearing adopts a resolution or formal order declaring the public purpose or use...

(b) *Open spaces and areas purchased under Outdoor*

Recreation Land Loan of 1968 - If any county, city, or the Maryland-National Capital Park and Planning Commission purchases open spaces and areas under the Outdoor Recreation Land Loan of 1968, the Board of Public Works shall pay a portion of the purchase cost if the Secretary has approved the acquisition and costs, and the acquisition complies with the provisions of the Outdoor Recreation Land Loan of 1968."

E. In order to preserve the Property in its present state as much as possible, and to make their land available to the residents of Harford County, Maryland, for their recreational enjoyment, the Seller is willing to sell her Property to the Buyer (and the Buyer is willing to purchase it from the Seller), in its present or "As Is" condition, for the purposes more fully hereinafter described, and on the terms and conditions hereinafter stated.

F. Furthermore, the Buyer has advised the Seller that the Buyer's acquisition of the Property (now believed to consist of approximately two hundred thirty (230+) acres of land and the improvements thereon) will be funded jointly by Harford County, Maryland, and by the State of Maryland, using "Program Open Space" funds.

G. The parties are also aware of the provisions of the Natural Resources Article §5-906(e)(7). Notwithstanding its said options and rights under said Article §5-906(e)(7), the Buyer hereby waives the same.

H. This is the sole transaction between the Seller and the Buyer, and the sale and purchase of the Property, as herein described, shall not be "tied in with" or contingent in any way upon the Buyer's acquisition of any other property for similar or other purposes.

I. The Seller's Social Security number is 215-14-9865, and the Buyer's Tax I. D. number is 52-6000959.

NOW, THEREFORE, THIS AGREEMENT OF SALE AND PURCHASE

WITNESSETH: That for and in consideration of their respective covenants, undertakings, and agreements, as herein contained, and for other good and valuable consideration, the adequacy and receipt of all of which are hereby acknowledged, Seller hereby

bargains and sells to Buyer, and Buyer hereby purchases from Seller, in their present, or "As Is" condition, all of those two (2) contiguous tracts of land and property, hereinafter described in Paragraph 2 hereof, on the terms and conditions hereinafter set forth, to be used by the Buyer and its permittees and assigns only for farming, open space, and active and passive public recreational purposes, all as described in Paragraph 15 hereof, which conditions and limitations shall constitute covenants running with the title to the Property:

1. RECITALS:

Each and all of the above "Recitals" are hereby adopted and made a part of the operative provisions of this Agreement.

2. PROPERTY:

As used herein, the "Property" shall refer to the Seller's aforementioned two (2) contiguous tracts of land now believed to contain a total of two hundred thirty and 5/10ths (230.5) acres of land, more or less, and described as follows:

ALL of those two (2) contiguous tracts or parcels of land situate, lying and being at or near Benson, in the Third Election District of Harford County, the first thereof containing 56 1/2 acres of land, more or less, and the second thereof containing 222 acres of land, more or less; and

BEING the same and all the land and property described in and conveyed by Deed from Zero, Inc. to Francis G. Smith and Edith Virginia Smith, his wife, as tenants by the entirety, dated June 10, 1965, and recorded among the Land Records of Harford County in Liber GRG No. 677, folio 500, et seq., but

SAVING AND EXCEPTING THEREFROM, however, those portions of the Seller's land heretofore acquired by the State Roads Commission of Maryland ("the State") in condemnation proceedings filed in the Circuit Court for Harford County, Maryland (See Land Acquisition Docket No. 1, folio 143, Condemnation Case No. 564), as well as that conveyed to Winters

Run Golf Club, the latter consisting of approximately two (2) acres; all as more fully described in Paragraph 14 hereof.

This sale and the subsequent conveyance of the Property hereunder by the Seller to the Buyer at Closing shall be subject to the Seller's retention of the exclusive right, for the full term of her natural life, to reside on and to use and enjoy the "Home Parcel", including the "Stone Home" thereon, exclusively, as her principal residence, together with unobstructed ingress thereto and egress therefrom, at all times.

The improvements on the "Home Parcel" are presently known as 864 Smith Lane, Benson, Maryland 21018.

Attached hereto as a part hereof, and marked "Exhibit A", is a copy of Harford County Tax Map No. 48 on which the perimeter of the land being sold and purchased hereunder, i.e., Parcels No. 105 and 222, is outlined in blue, and on which the perimeter of the "Home Parcel" (as to which the Seller is retaining a life estate) is outlined in red. The parties recognize that such boundaries are approximate and that the perimeters of both the Property being sold and the "Home Parcel" shall be exactly identified and shown on a plat to be prepared by a competent surveyor, who is registered with the State of Maryland, and shall be employed and paid by Buyer, all as more fully herein described in Paragraph 4 hereof.

3. INCLUSIONS AND EXCLUSIONS

A. Inclusions.

The Property (i.e., the land being sold and purchased hereunder) shall include all buildings and improvements thereon, and all but one (1) "Development Right" being retained by the Seller and believed by the parties to have a current market value of approximately Forty Thousand Dollars (\$40,000.00), as well as all other rights, ways, roads, waters, easements, rights-of-way, privileges, and appurtenances thereto belonging or in any manner appertaining.

B. Exclusions.

Excluded from the Property being sold hereunder is all farm equipment on the Property, which is and shall remain an asset of the Estate of Francis G. Smith, deceased. The said Estate shall have the right, for a period of sixty (60) days after Closing, to remove its farm equipment from the Property.

In addition, all of the personal property in the "Stone Home", including all household furniture and personal effects, belong to the Seller and shall be excluded from the Property or assets being sold hereunder by the Seller to the Buyer. The Seller shall have the right for a period of sixty (60) days after the termination of her life estate in the "Home Parcel" to remove her personal property therefrom.

4. SURVEY:

- A. At least forty-five (45) days before Closing (as described in Paragraph 9 hereof), Buyer shall, at its sole cost and expense, employ a qualified land surveyor, who is registered by the State of Maryland, to make a survey of the perimeters of the Property being sold hereunder, including the "Home Parcel", and to compute their acreages and to show their respective perimeters on a preliminary drawing or plat. Such plat shall be submitted by Buyer to Seller at least twenty (20) days before Closing. The parties shall then meet promptly for the purpose of reaching an agreement as to the exact location of the boundaries of the Property being sold and purchased hereunder as well as those of the "Home Parcel". The parties' approval of such plat shall be evidenced by their respective signatures on it.
- B. Thereafter, the Buyer's said surveyor shall be required to furnish to the Buyer a modern description and a final plat of both the Property and the "Home Parcel" as well as the surveyor's computations of the areas of each parcel. Buyer

shall submit copies of all such documents and computations to Seller for her approval, at least fifteen (15) days prior to Closing. Conveyance of the Property at Closing shall be by the approved descriptions so furnished.

5. PURCHASE PRICE:

- A. Based upon the assumption of the parties that the gross acreage of the Property is at least two hundred twenty (220) acres and not more than two hundred thirty and 5/10ths (230.5) acres, the purchase price ("Purchase Price") for the Property is and shall be Two Million One Hundred Twenty-Eight Thousand One Hundred Fifty Dollars (\$2,128,150.00) (the "Purchase Price"), plus interest thereon.

If, however, the current survey of the Property referred to in Paragraph 4 above, shall show that the gross acreage of the Property is less than two hundred twenty (220) acres, the Purchase Price shall be reduced by the product of Nine Thousand Two Hundred Thirty-Two and 75/100 Dollars (\$9,232.75) times the number of acres in the Property which are less than two hundred twenty (220).

Furthermore, since the Seller is retaining one (1) "Development Right" having an agreed market value of Forty Thousand Dollars (\$40,000.00), there will not be any adjustment in the selling price if the said survey shall show that the gross acreage of the Property is greater than two hundred thirty and 5/10ths (230.5) acres and less than two hundred forty (240) acres.

In the event the said survey shall show that the Property contains more than two hundred forty (240) acres, the Purchase Price shall be increased by the product of Nine Thousand Two Hundred Thirty-Two and 75/100 Dollars (\$9,232.75) times the number of acres in the Property which are greater than two hundred forty (240).

- B. Fifty Thousand Dollars (\$50,000.00) of the Purchase Price shall be paid by Buyer to Seller immediately prior to the execution of this Agreement. The balance of the Purchase Price, as adjusted as aforesaid, shall be paid or adequately secured by the Buyer to the Seller, at the Closing.

All monies payable at the Closing shall be paid in cash or in certified funds (which payment shall be in lawful money of the United States of America) as follows (based upon an anticipated sales price of Two Million Seventy-Eight Thousand One Hundred Fifty Dollars [\$2,078,150.00], but subject to adjustment as provided in Paragraph A above:

Selling Price	\$2,128,150.00
<u>Less:</u> "Deposit" or Down Payment	(50,000.00) (B)
Balance Remaining	\$2,078,150.00
<u>Less:</u> Additional Cash Deposit Due at Closing	(1,000,000.00)
Unpaid Balance (to be secured and paid on an installment basis)	\$1,078,150.00 (C)
	=====

- B. The Deposit - shall be paid to Brown, Brown & Brown, P.A., as Escrowee, to be placed in a separate, F.D.I.C. insured, interest bearing escrow account in "The Forest Hill State Bank". The interest paid on the Escrow account shall follow payment of the principal (i.e., paid to the ultimate recipient of the Deposit, whether Seller or Buyer), in accordance with the terms of this Agreement.

If the Buyer shall terminate this Agreement for any reason other than Seller's failure of title, or Seller's failure to fulfill her obligations as set forth in this Agreement, and which failure has not been cured, after ten (10)

days' written notice thereof from the Buyer to the Seller and the Escrowee, the Buyer shall forfeit one-half ($\frac{1}{2}$) of its deposit and accumulated interest to the Seller. Written notice of such forfeiture may be given by either of the parties to the other party and to the Escrowee. If no objection thereto is made, within ten (10) days of the Escrowee's receipt of such notice, the Escrowee shall pay one-half ($\frac{1}{2}$) of the Escrow deposit plus one-half ($\frac{1}{2}$) of the interest accrued on said deposit to the Seller, and the remaining one-half ($\frac{1}{2}$) thereof to the Buyer, whereupon this Agreement shall terminate and end. If, however, either party hereto shall file a written objection to such forfeiture with the Escrowee within such ten (10) day period, the Escrowee shall immediately so notify the non-objecting party, in writing. In such event the parties shall make a sincere effort to resolve their differences. If they have not done so within thirty (30) days after the objection was originally filed, the Escrowee may bring an "Interpleader" proceeding in the Circuit Court for Harford County, Maryland, and pay the Escrow funds, plus accrued interest, less the Escrowee's reasonable legal expenses for so doing, with the Clerk of said Court. Thereafter, the Escrowee shall be relieved of his duties as such.

- C. The balance of the Purchase Price unpaid at Closing (which shall not exceed One Million Seventy-Eight Thousand One Hundred Fifty Dollars (\$1,078,150.00)), shall be evidenced by a Note, in such amount, secured by a First Purchase Money Deed of Trust on the Property, both executed by the Buyer and delivered to Seller at Closing. Such Deed of Trust shall be recorded by Seller among the Land Records of Harford County, Maryland, at the expense of the Buyer. One-fifth ($\frac{1}{5}$ th) of the balance of the Purchase Price shall be paid by Buyer to Seller in each year (but not more frequently than semi-annually) thereafter, to and including a date not more than five (5) years after the Closing. The dates on which each such installment payment is payable shall be determined

by the Harford County Executive and the Treasurer of Harford County, subject, however, to the approval of the Seller, and all such approved dates and terms shall be incorporated in the Deed of Trust Note.

Buyer shall have the right to prepay the said principal balance at any time, in multiples of One Hundred Thousand Dollars (\$100,000.00).

The Buyer's obligation to make payments of the balance of the Purchase Price under the Deed of Trust and Deed of Trust Note, and to pay interest thereon, shall be a general obligation of the Buyer and based upon the Buyer's full faith and credit.

- D. Interest. The Note shall bear interest on the principal balance outstanding from time to time, at the rate of five percent (5%) per annum, which interest shall be "tax free" to the Seller. If the Buyer is unable to assure Seller at the Closing that such interest will be "tax free", or, if after the Closing, the interest on the unpaid balance shall cease to be tax free, all interest due on the unpaid balance shall immediately become eight percent (8%) per annum, effective as of the date of Closing and continuing until the payment in full of the Note secured by the Deed of Trust. Buyer shall pay such additional interest as may be then due, within sixty (60) days of the earlier to occur of (i) the payment of the tax on the interest by the Seller, or (ii) the final determination by the appropriate authority that the interest is taxable to the Seller.

E. Seller's Appraisal.

Prior to Closing, Seller shall have the right to employ a qualified appraiser to make a current appraisal of the Property. To the extent that such appraisal shall show that the current market value of the Property is greater than the said Purchase Price (presently believed to be Two Million One Hundred Twenty-Eight Thousand One

Hundred Fifty Dollars [\$2,128,150.00], but subject to adjustment as stated in Paragraph 5 above), such balance or excess shall be donated at the Closing by Seller to Buyer.

F. Memorial Plaque.

In appreciation of Seller's donation as set forth in Paragraph E hereof, and within six (6) months after Closing, Buyer shall erect or install and thereafter maintain, a brass or bronze memorial plaque measuring at least three (3') feet in length and eighteen (18") inches in height, in front of the stone house on the "Home Parcel". That plaque shall contain the following inscription: "Edgely Grove Farm - In appreciation of the cooperation and generosity of Francis G. Smith and Edith Virginia Smith in making this valuable property available for public use and enjoyment."

6. ESCROW AGENT:

The duties of the Escrow Agent shall be as follows:

- A. Duties. Before Closing, the Escrow Agent shall accept, hold, and disburse the Deposit and interest earned on the Deposit in accordance with the terms and provisions of this Agreement, including those set forth in Paragraph 5.B. Simultaneously with the execution of this Agreement, Buyer shall provide the Escrow Agent with its Federal Tax Identification number and Seller with her Social Security number. Any interest earned on the Escrow Deposit shall be reported as income by the Buyer on its tax returns.
- B. Dispute or Termination. If this Agreement is terminated by the mutual written agreement of Seller and Buyer, the Deposit and interest earned on the Deposit shall be paid by the Escrow Agent, in accordance with the joint written instructions of Seller and Buyer. In the event such written instructions are not received by the Escrow Agent

within ten (10) days after the Escrow Agent has served, upon Seller and Buyer, a written request for such instructions, or if either party shall notify the Escrow Agent that a dispute between the parties hereunder as to the terms of this Agreement has not been resolved, the Escrow Agent shall immediately, by a bill of interpleader, pay the Deposit and interest earned on the Deposit into a court of competent jurisdiction and interplead Seller and Buyer, and, thereafter, the Escrow Agent shall be discharged of any further obligation as such under this Agreement.

- C. Expenses. If any costs or expenses are incurred by the Escrow Agent because of any such litigation or dispute between Seller and Buyer arising out of a claim for the Deposit or the interest earned on the Deposit, the party held not to be entitled to the Deposit, and the interest earned thereon, shall pay the Escrow Agent such attorney's fees, costs, and expenses as the Court shall deem reasonable. Except for such fees, costs, and/or expenses, no fee or charge shall be due or payable to the Escrow Agent for its services as holder of the Escrow Deposit.
- D. Limitation on Duties. Seller and Buyer acknowledge that the Escrow Agent is required to perform only the duties and obligations imposed upon the Escrow Agent under the terms of this Agreement, and the Escrow Agent shall not undertake or perform any of the covenants, terms, or provisions of this Agreement, which are the responsibility hereunder of either the Seller or Buyer.
- E. Limitation on Liability. The Escrow Agent shall not assume or incur any liability under this Agreement except for its own negligence or wilful misconduct. Also, the Escrow Agent shall not be responsible for the validity, correctness, or genuineness of any document or notice referred to under this Agreement. In the event of any dispute under this Agreement, the Escrow Agent may seek advice from its own counsel at the joint expense

of the parties, and shall be protected equally and fully by the parties hereto in any action taken by the Escrow Agent in good faith in accordance with the opinion of its counsel.

7. TITLE:

At Buyer's expense and within twenty (20) days after the date of this Agreement, Buyer shall obtain a commitment (the "Title Commitment") from a title insurance company of Buyer's choice, licensed to do business in Maryland, for an owner's title insurance policy on the most recent Standard ALTA Policy Form. If the Title Commitment shows exceptions to the Seller's title that, in Buyer's sole opinion, have an adverse effect upon the title to the Property ("title defects") then within thirty (30) days following the execution of this Agreement, Buyer shall elect, by written notice to Seller: (i) to terminate this Agreement; or (ii) to allow Seller an opportunity to cure such "title defects". If Buyer elects to allow Seller an opportunity to cure the "title defects", Seller may do one of the following: (i) elect to cure the "defects" prior to Closing; or (ii) elect not to cure the title "defects" and terminate this Agreement. Seller shall give Buyer written notice of its election within forty-five (45) days from the date of this Agreement. If Seller elects not to cure the "defects" and to terminate this Agreement, then upon written notice given by Buyer to Seller within five (5) days of Buyer's receipt of Seller's notice, but no later than fifty (50) days from the date of this Agreement, Buyer may elect to waive any or all of such "title defects" and proceed with Closing.

If this Agreement is terminated under this Paragraph 7, then immediately upon written notice thereof by such terminating party to the other party and to the Escrow Agent, the Deposit shall be returned to the Buyer together with all interest earned thereon.

8. SELLER'S ENCUMBRANCES:

Seller shall not voluntarily create, cause, or permit a lien or encumbrance to attach to the Property between the date of this Agreement and Closing; any lien or encumbrance so attaching, as well as any existing lien or encumbrance including any existing mortgage, deed of trust, judgment lien, or similar lien against the Property that can be discharged by the payment of

money, shall be discharged by Seller at or prior to Closing.

9. CLOSING:

A. Closing. Closing (the "Closing") shall take place on or before Thursday, August 31, 2000, and shall be held at a time and place in the Baltimore Maryland Metropolitan area designated by Buyer and agreed to by Seller. Notice of the time and place of Closing shall be given by Buyer to Seller at least ten (10) days in advance of such Closing. At the Closing, Buyer shall pay Seller that part of the Purchase Price then due (less the Deposit), and that part of the unpaid Purchase Price to be financed by the Seller, in cash, certified check, or by wire transfer. Also, at that time, the Escrow Agent shall pay the Deposit, plus the accrued interest thereon, to Seller.

B. Adjustments and Prorations. Real estate taxes shall be adjusted to the date of Closing. The cost of all documentary stamps, recordation and transfer taxes, and all other costs, shall be paid by Buyer.

C. Deed. At the Closing, good, marketable, and merchantable title to the Property, as described in "Exhibit B", attached hereto as a part hereof, shall be conveyed by Seller to Buyer by a fee simple special warranty deed, free and clear of all liens, encumbrances, and defects, except those specifically accepted or consented to by Buyer. The deed shall be in proper form for recording among the Land Records of Harford County, Maryland, and shall include the following provisions:

- (1) To be inserted in the Deed immediately after the "Being" Clause:

"Reserving unto the Grantor, Edith Virginia Smith, a Life Estate interest, without powers, in that part of the Property referred to as the "Home Parcel", and the improvements thereon, all as more

fully described in said "Exhibit B", with the remainder therein vesting, upon the death of the Grantor, in the Grantee, Harford County, Maryland, its successors and assigns;" and

- (2) The "Habendum" Clause of the Deed shall read:

"TO HAVE AND TO HOLD the above granted Property unto Harford County, Maryland, its successors and assigns, in fee simple, forever, subject to the above described Life Estate reserved by the Grantor unto herself, and subject also to each and all of the conditions, covenants, and restrictions ("Restrictions") described in "Exhibit C" attached hereto as a part hereof, which "Restrictions" shall run with the title to the subject Property and are intended to limit, forever, the use of the said Property to farming, and passive and active public recreational uses, all as more specifically set forth in "Exhibit C"."

- D. Buyer's Financial Obligations At or Prior to Closing. Buyer shall be responsible for and shall pay for the examination of title, Title Commitment, survey, tax certificates, preparation and recording of the Deed, notary fees, and all documentary and transfer taxes.
- E. Agricultural Transfer Taxes. Buyer shall be responsible for and shall pay any agricultural transfer tax imposed pursuant to the Tax Property Article of the Annotated Code of Maryland, as amended, including Sections 13-303 and 13-304 thereof, which taxes are understood to be five percent (5%) of the Purchase Price, less the items to be deducted therefrom in accordance with Sections 13-304(a)(1) and (2).
- F. Seller's Obligations. Seller shall execute such necessary affidavits and give such assurances as are reasonably requested by Buyer's title insurance underwriter, and which are consistent

with the terms and conditions of this Agreement.

G. Possession. Possession of the Property, subject to Seller's life estate in the "Home Parcel" and access thereto, as well as subject to any valid leases disclosed to Buyer by Seller within thirty (30) days after the date of this Agreement, shall be given to Buyer or its agents and assigns at Closing.

H. Violations. Except for violations by Buyer, all notices of violations of local ordinances or requirements issued by legal authorities or prosecutions in any court on account thereof affecting or against the Property shall be defended and complied with by Seller prior to Closing.

10. WAIVER BY BUYER:

• Buyer has been informed fully as to its options and rights under the provisions of the Natural Resources Article of the Annotated Code of Maryland, as amended, and specifically §5-906(e)(7), which state that:

"Land acquired or developed under a State grant from Program Open Space may not be converted, without written approval of the Secretary of the Department of Natural Resources and the Secretary of the Department of Budget and Management and the Director of the Office of Planning, from outdoor public recreation or open space use to any other use. Any conversion in land use may be approved only after the local governing body replaces the land with land of at least equivalent area and of equal recreation or open space value; and (8)(1) for any conversion of land acquired or developed under a state grant from Program Open Space as provided in paragraph (7) of this subsection, the appraised monetary value of the land proposed for acquisition shall be equal to or greater than the appraised monetary value of the land to be converted under the proposed new use of the converted land."

After full and careful consideration, the Buyer hereby waives each and all of its said options and rights, and Buyer

further agrees that the Property shall never be sold or transferred to another entity or converted to a use other than those permitted by the terms of this Agreement.

11. REPRESENTATIONS AND WARRANTIES OF SELLER, AND/OR STIPULATIONS OF THE PARTIES:

To the best of Seller's information, knowledge, and belief, each and all of the following representations and warranties by Seller is true and correct at this time, and shall be true at Closing:

- A. Power and Authority to Sell. Seller has the full power and authority, and the legal right to enter into this Agreement and to transfer and convey to Buyer full legal and beneficial ownership of the Property. Seller is lawfully seized of the Property. If the Property is owned by an estate, Seller has full power and authority to enter into this Agreement on behalf of such estate and Seller shall enter into such amendments to this Agreement as may be necessary to properly identify Seller;
- B. Zoning. The parties hereby stipulate that the entire Property being sold hereunder, consisting of two hundred thirty and 5/10ths (230.5) acres, more or less, is zoned "AG" Agricultural District by Harford County, Maryland. Furthermore, Seller represents that she has not made application for or received notice of any pending Property re-zoning or reclassification application.
- C. Acreage and Survey. The acreage of the Property, as stated prior hereto in RECITALS, Paragraph A of this Agreement, was estimated by the Seller prior to the preparation and execution of this Agreement. It shall be Buyer's responsibility, with the assistance of its surveyor or engineer, to determine the present gross acreage and all other details of the Property that Buyer deems important; and to prepare and show on a plat of the Property its perimeter, the location and perimeter of the "Home Parcel" and its improvements, as well as the acreage of the "Home Parcel" and the location and shape of all other

buildings and improvements on the Property. In addition, Buyer's engineer shall show on said plat the location and acreage of all wetlands, flood plains, critical areas, and required buffers and set-back areas. Upon Buyer's receipt of such plat, calculations and other engineering data and information, Buyer shall immediately furnish three (3) copies thereof to Seller;

- D. No Moratoria. The parties stipulate and agree that the present zoning classification of the Property is "AG" Agricultural District, and the Property is not subject to any moratoria or other restriction on its use or development;
- E. Mechanics' Liens. All bills and claims for labor performed and materials furnished to or for the benefit of the Property during the period preceding Closing have been paid in full (or will be paid prior to Closing), and there shall not be any mechanics' or materialsmen's liens pending or threatened as of the Closing. If there are any such liens as of Closing, then the Seller shall pay the same from the Seller's proceeds of this sale;
- F. Access. The Property has free and direct access by Smith Lane to and from Connelly Road, a validly dedicated public road of Harford County, Maryland. Seller has no knowledge of any pending or threatened governmental proceeding or of any other fact or condition that would limit or result in the termination of such access;
- G. Compliance with Other Instruments. Neither the entering into of this Agreement nor the consummation of the transaction contemplated by this Agreement constitutes or will result in a violation or breach by Seller of any contract or instrument to which Seller is a party, or to which Seller is subject, or by which Seller or any of Seller's assets or properties may be bound;

H. Compliance with Laws.

- (1) Neither the entering into of this Agreement nor the consummation of the transaction contemplated by this Agreement constitutes or will result in a violation or breach by Seller of any judgment, order, writ, injunction, or decree issued against or imposed upon Seller, or will result in a violation of any applicable law, order, rule, or regulation of any governmental authority;
- (2) There is no pending action, suit, proceeding, or investigation that would prevent any action contemplated by this Agreement; that would become a cloud on the title to the Property or any portion of the Property; or that questions the validity or enforceability of the transaction contemplated by this Agreement or any action taken pursuant to this Agreement before any court, or before or by a federal, district, county, or municipal department, commission, board, bureau, agency, or other governmental instrumentality;
- (3) No approval, consent, order, or authorization of, or designation, registration, or filing (other than for recording purposes) with any governmental authority is required in connection with the valid execution and delivery of this Agreement and compliance with the provisions of this Agreement and the consummation of the transaction contemplated by this Agreement; and
- (4) There are no notices of violations of law or municipal ordinances, orders, or requirements noted in or issued by any federal, state, or municipal department or other department relating to the Property that have not been satisfactorily corrected by Seller;

I. Condemnation. Seller is not aware of the whole or any portion of the Property's being subject to

temporary or permanent requisition or use by any governmental authority, and, to the best of Seller's knowledge, information, and belief, there is not now pending any condemnation, requisition, or similar proceeding affecting the Property or any portion of the Property. Seller has not received any notice and Seller has no knowledge that any such proceeding exists or is contemplated;

J. Other Agreements. Except as hereinafter provided in Paragraph 12.E.(1) the Property shall be delivered to the Buyer at Closing, free of any management, leasing, service, operating, or other continuing contractual obligations. There are no options and no other contracts have been executed, granted, or entered into that have not been terminated or that give or allow any other party a right to purchase the Property other than those mentioned herein;

K. Compliance with Covenants. Seller is not in default or in breach of any covenants, conditions, restrictions, rights-of-way, or easements affecting the Property or any portion of the Property;

L. No Forfeitures. During the term of this Agreement, Seller shall keep all existing insurance policies, mortgage(s), or deed(s) of trust encumbering the Property current and not in default. Also, Seller shall pay when due, during the term of this Agreement, all taxes, and other public charges against the Property so as to avoid the possibility of forfeiture of Buyer's rights under this Agreement;

M. Fire Insurance. Seller shall have all existing fire insurance policies on the Property endorsed to include Buyer, as the Contract Purchaser, as an additional insured thereunder. In the event Buyer is dissatisfied with the amount or kind of Seller's existing coverage, Buyer shall have the right, at Buyer's cost or expense, to obtain such additional insurance as Buyer shall deem

appropriate, and Seller shall be named therein as an additional insured;

N. Title. Seller is the sole owner of record and in fact, legally and beneficially, of the Property, and she has the right to sell and assign without the agreement of any other person or entity, fee simple title to the Property to the Buyer, as required by this Agreement. The Property shall be conveyed free of all liens, encroachments, and encumbrances, except as otherwise set forth in this Agreement, or as may otherwise be agreed upon in writing by the parties, but free of all mortgages, deeds of trust, and indemnity deeds of trust created by Seller;

O. Litigation. The Seller is not aware of any pending action, suit, proceeding, or claim affecting Seller or the Property or any portion of the Property relating to or arising out of the ownership, operation, use, and occupancy of the Property. Seller shall give Buyer prompt notice of any such litigation that may be instituted prior to Closing;

P. Cemeteries. The Seller has no knowledge of the existence of any cemeteries or burial plots on the Property;

Q. Environmental Compliance. The Seller hereby notifies the Buyer of the existence of the following tanks and their contents on the Property:

- (1) An underground gasoline storage tank near the garage; and
- (2) An above-ground diesel storage tank near the horse barn.

Except as stated above, to the best of Seller's knowledge, information, and belief, there does not now exist on the Property any significant (i.e., other than for Seller's personal use) amount of (i) "Oil, petroleum products or their by-products"

as defined by Maryland Natural Resources Article of the Annotated Code of Maryland, Section 8-1411(a)(3) (1984 Cum. Supp.); (ii) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, or as otherwise amended from time to time, and regulations promulgated thereunder; (iii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder (including, without limitation, asbestos); (iv) "hazardous substances" as defined by Environmental Article, Maryland Annotated Code, Title 7, Subtitle 2, as amended from time to time, and such regulations as may be promulgated thereunder; and (v) any substance, the presence of which on the Property is prohibited by any other federal, state or local law applicable to the Property. Furthermore, except as stated above, to the best of the Seller's information, knowledge, and belief, there are no underground storage tanks for gas, diesel oil, or other fuels on the Property. The parties acknowledge that the Property has been used for many years as an operating farm operation and such use has included the application of chemicals and fertilizers to the land and the storage of chemicals, oil petroleum products and their by-products on the Property; and

- R. Not a Foreign Person. Seller is not a foreign person and is in compliance with 26 U.S.C. §1445. At Closing, Seller shall provide Buyer with Seller's Social Security number and, if requested by Buyer, a certificate of non-foreign status.

12. MUTUAL COVENANTS:

- A. Preservation of Seller's "Stone Home" as a Historic Building.

Buyer hereby represents and warrants to Seller that Buyer will, at all times after the date of this Agreement, fully maintain and preserve the

Seller's historic "Stone Home" at 864 Smith Lane, Benson, Maryland 21018, in perpetuity, as a historic building. Photographs showing the present appearance and condition of the exterior and interior of the "Stone Home" and marked "Exhibit D", are attached hereto and made a part hereof for that purpose.

In addition to the "Stone Home", from and after the date of this Agreement, Buyer shall be solely responsible for the adequate and timely maintenance and preservation of all other buildings and improvements on the Property.

During the existence of the Seller's life estate in the "Stone Home" and "Home Parcel", however, Seller shall be responsible for the maintenance of the interior of that Home.

In the event Seller, or after her death or the termination of her life estate, her successor(s) or designee(s), as hereinafter defined ("Seller"), believe that Seller's "Stone Home" is not being properly and fully maintained and preserved by the Buyer as a historic building, Seller shall give written notice thereof to the Buyer. Thereupon, Buyer shall, within thirty (30) days after Buyer's receipt of such complaint, remedy the same. Upon completion of the Buyer's corrective work, it shall so advise Seller, in writing.

If, however, Buyer does not agree that Seller's complaint(s) is (are) valid, Buyer shall so advise Seller, in writing, within thirty (30) days after Buyer's receipt of Seller's complaint. If the parties are then unable to resolve their disagreement about the validity of the complaint, either Seller or Buyer shall have the right to ask that the matter be resolved by arbitration. The arbitrators shall consist of three (3) persons: one (1) arbitrator appointed by the Seller; a second arbitrator appointed by the Buyer; and the third arbitrator appointed by the aforementioned first two (2) arbitrators.

The majority decision of the three (3) arbitrators shall be binding on both the Seller and Buyer and, if required by the terms of the arbitration decision, shall be implemented by the losing party within thirty (30) days after the issuance of the arbitrators' decision. Also, the losing party in such proceedings shall pay or reimburse the winning party for all costs and reasonable attorney's fees incurred by such winning party. The decision of the arbitrators in such disputed matter shall be final and conclusive.

In the event the Seller or her successor(s) or designee(s) shall make two (2) or more complaints in one (1) calendar year to the Buyer as to its failure to properly maintain and preserve the "Home Parcel" and the "Stone Home" and other buildings thereon, and which complaints are found by the arbitrators to be valid, the Seller shall have the right to request that the "Stone Home" on the Property be placed on the Federal Registry of Historic Places or under the supervision of the Maryland Historical Trust, or its successors.

- B. Burglar and Fire Alarm. Recently, the Seller contracted with Harford Alarm Company, of 202 East Broadway, Bel Air, Maryland 21014, and paid for the installation of a new burglar and fire alarm system in the Seller's aforementioned "Stone Home". In addition to having paid the cost of installation, the Seller is obligated to pay Harford Alarm Company a Twenty Dollar (\$20.00) per month service charge for the next three (3) years. Upon Seller's vacating said home, all future maintenance and service charges for that alarm system shall be assumed and paid by the Buyer.
- C. Entrance Road and "Home Parcel". So long as Seller's life estate in the "Stone Home" and the "Home Parcel" exists, Seller shall, at all times, have the absolute right of unimpeded access over the entrance road to and from the "Home Parcel" via Smith Road to Connolly Road. To assure

Seller's right of ingress and egress, immediately upon the execution of this Agreement, Buyer shall assume and be solely responsible for the adequate and timely clearing, maintenance, and repair of the entrance road on the Property for its entire length including the prompt removal of snow therefrom within twenty-four (24) hours after any snowfall if the total accumulation thereon shall exceed three (3) inches in depth at any time. Furthermore, upon the signing of this Agreement, Buyer shall thereafter be solely responsible for the adequate and timely maintenance of the Property's grounds, grass, trees and shrubbery, particularly the "Home Parcel".

D. Leases Or Rentals.

(1) Farm Rental. Buyer has been advised and acknowledges notice from Seller that for the past ten (10) years all of the tillable land on the Property has been rented under an oral "year to year" lease by Seller to Franklin Harkins. So long as his farming practices and operation meet accepted Harford County farming practices and the amount of the rent Mr. Harkins pays for the right to farm the Property, for the calendar year 2000, conform to the then prevailing rate for farm rent in the Third Election District of Harford County, Maryland, and so long as his farming operation does not interfere with Buyer's use of the Property, he (Franklin Harkins) shall be permitted to continue to lease those parts of the Property he has farmed prior to the date of this Agreement, for farming purposes, and for the remainder of the calendar year 2000. After January 1, 2001, Buyer shall have the right to negotiate for and to enter into a Lease with any Lessee of its own selection for the farming of the Property, provided, however, that such future farmer shall, at all times, use accepted and recognized good farming practices; and

(2) Mobile Home. Buyer has also been advised and acknowledges that there is a mobile home

on the Property which is presently being leased to Ms. Meredith Sauers, under an oral lease agreement, and on a month-to-month basis, for the sum of Two Hundred Dollars (\$200.00) per month. Such rent shall be adjusted as of the date of Closing and paid thereafter by the Tenant to the Buyer.

On July 21, 2000, Seller gave Ms. Sauers written notice, by U. S. Certified Mail, to vacate said mobile home and its curtilage on or before August 31, 2000. After the Closing, the Buyer shall own the mobile home and shall, alone, have the right to control the rental and occupancy of such home.

E. Good Faith Efforts.

Both Seller and Buyer shall use their best "good faith efforts" to obtain all necessary approvals to consummate the sale and purchase of the Property in accordance with the terms of this Agreement and to close or settle on or before the final date for Closing, i.e., August 31, 2000.

13. CONDEMNATION BY OTHER THAN BUYER:

If, at or prior to Closing, any portion of the Property is condemned or taken pursuant to any governmental or other power of eminent domain by a condemning authority other than the Buyer, and written notice of such taking or condemnation is issued, or if any proceedings are instituted by any governmental authority having the power of eminent domain, and the taking or condemnation is of the entire Property, or ten percent (10%) or more of a portion of the Property, which taking is reasonably deemed by Buyer to result in a material adverse effect upon Buyer's development, use, or operation of the Property (a "Major Taking"), then Buyer may terminate this Agreement by giving Seller written notice to that effect within fifteen (15) days after receiving written notice from Seller of the said condemnation or taking. In such event, the Deposit and all interest earned on the Deposit shall be paid by the Escrowee to Buyer and, thereafter, both Seller and Buyer shall be relieved of any further liability under this Agreement. If a taking or condemnation occurs, however, that is not a Major Taking, or if a

Major Taking occurs and Buyer does not elect to terminate this Agreement within said fifteen (15) day period, Buyer shall proceed to Closing for the Property, less the portion of the Property, if any, already taken, and Buyer must then elect: (i) to a reduction in the Purchase Price equal to the condemnation award paid to Seller; or (ii) to pay the full Purchase Price and to receive the entire condemnation award due or paid to Seller. If the portion of the Property to be condemned has not been taken and paid by the condemning authority by the time of Closing, there will be no reduction in the Purchase Price and Seller shall assign to Buyer at Closing all of Seller's right to such unpaid condemnation award, and Seller shall convey the entire Property to Buyer.

14. REAL ESTATE COMMISSIONS:

Seller and Buyer each represent and warrant to the other that neither she nor it has dealt with or had the benefit of the services of a real estate broker or agent in connection with this transaction. Accordingly, Seller and Buyer hereby agree to hold the other harmless from any and all claims for any such commissions or fees by a broker or agent, who allegedly represented the party making such representation in the transaction hereby contemplated. The provisions of this Paragraph 14 shall survive the termination of this Agreement whether by Closing or otherwise.

15. SELLER'S CONDITIONS AND CONTINGENCIES, i.e.,
"Restrictive Covenants":

At all times after Closing, the Property shall be used only for one (1) or more of the following uses and purposes, "Restrictive Covenants", which shall be included in the Deed of Conveyance of the Property as Restrictive Covenants running with the title to the Property and binding on both the Grantor and her personal representatives and assigns, and on the Grantee and its successors and assigns, in perpetuity, forever:

A. The "Stone Home" and the "Home Parcel".

Upon the termination of the Seller's life estate in the "Stone Home" and the "Home Parcel", Buyer shall be solely responsible for the maintenance and repair of said "Stone Home" (as more fully stated in Paragraph 12.A.), and Buyer shall have the right to rent the "Stone Home" and "Home

Parcel" to a responsible tenant or family, or to keep the "Stone Home" unoccupied but open during certain designated hours and days so that its historic importance can be viewed and appreciated by the public, particularly residents of Harford County, Maryland; and

B. All of the Remainder of the Property.

All of the remaining land constituting the Property other than the "Home Parcel" shall be used, after Closing, by the Buyer and its successors and permitted assigns, only for farming, open space and/or public recreational uses and purposes, and for no other use or purpose, including but not limited to public or private roads that traverse the Property.

In connection with such uses and purposes, the Property may be used by Buyer and the public under Buyer's supervision and control for any one (1) or more of the following Public Recreational Uses and for such other appropriate uses as may first be approved in writing by Seller during her lifetime, and after her death, by her personal representative(s) and, thereafter, by her designees or assigns (as more fully described in sub-paragraph E. (3) hereof):

(1) Permitted Active Recreational Uses:

(A) Unlighted general purpose athletic fields for football, soccer, lacrosse, and field hockey;

(B) Unlighted baseball and softball diamonds;

(C) Unlighted general purpose courts for basketball, tennis and volleyball;

(D) Unlighted children's playgrounds;

(E) Unlighted, open air ice skating rinks;

(F) Unlighted equestrian events;

(G) Unlighted special events on specific occasions, as approved by Harford County, Maryland, primarily for the residents of the County;

(H) A band shell with restrooms*;

(I) Pavilions with picnic areas*;

(J) Concession stands with restrooms*;

(K) Skiing and sledding areas;

(L) Access roads;

(M) Unlighted parking areas for use only by persons while attending or participating in the aforementioned recreational uses*;

(N) The installation and maintenance of necessary public utilities to service said facilities, i.e., for water, sewer, electricity, and telephone service; and/or

(O) Appropriate facilities for the storage of equipment necessary only to maintain the Property, together with its restrooms, and such lighting for security purposes as the parties may, from time to time, agree upon, in writing*.

*NOTE: Such uses and facilities shall not be placed or maintained on the Property within one hundred (100) yards of the perimeter of the "Home Parcel".

(2) Permitted Passive Recreational Uses:

(A) The construction and maintenance of ponds for recreational purposes as well as for storm water management;

(B) Nature observation, walking, and exercise paths and trails, as well as bridle trails and bicycle paths; and/or

(C) Natural and/or landscaped areas with trees, benches, and decorative fountains.

C. The Following Uses of the Property Shall Be and Are Hereby Specifically Prohibited:

- (1) Residential uses, except for the "Home Parcel", and commercial uses of every kind, both temporary and permanent;
- (2) Rock and heavy metal bands and/or similar concerts, as well as the use of any part of the Property after nightfall, unless such activity is first approved, in writing, by Seller or her personal representatives and/or her designees or assigns;
- (3) The artificial lighting of any part of the Property except (i) the "Stone Home", (ii) such limited amount of lighting as may be necessary for security purposes, and (iii) lighting the band shell, which lighting shall be extinguished by 10:00 p.m.;
- (4) The construction or maintenance of either chain link or metal fences near or surrounding the "Home Parcel" during the existence of Seller's life estate in that Parcel;
- (5) The erection or maintenance of signs or billboards, other than small (i.e., no larger than two (2) feet in height by four (4) feet in length) identification and/or directional signs;
- (6) The damaging or cutting of growing trees on the Property except those that are found by a qualified forester to be either so diseased, or badly damaged by the elements, that they are in need of trimming, cutting, or removal; and
- (7) Any other use that is inconsistent with the aforementioned daytime uses and purposes, except those permitted uses described in

subparagraphs A(1) and (2) above of this Paragraph 15.

D. Deed Provisions. The deed of conveyance of the Property, to be executed by the Seller and delivered to and accepted by the Buyer at Closing, shall specifically set forth each and all of the Seller's "Conditions and Contingencies" as described in this Paragraph 15, including the above permitted active and passive uses; each and all of the said prohibited uses; and the Enforcement clause hereinafter set forth in subparagraph E hereof, entitled, "Enforcement".

E. Enforcement.

(1) Buyer and its successors and assigns shall, at all times, be solely responsible for carrying out and enforcing each and all of Seller's above described conditions and contingencies so that the public shall use the Property only while participating in and/or enjoying thereon one (1) or more of the said Permitted Active and Passive Recreational Uses, and the Property shall not be used or permitted to be used, at any time, by anyone, for any of the aforementioned Specifically Prohibited Uses. Buyer shall, in a timely manner, use its police and other powers including, but not limited to, its law enforcement personnel and the taking of appropriate legal action, when and as necessary, to carry out and to enforce each and all of its said undertakings as described in this Agreement.

(2) The "Specifically Prohibited Uses of the Property", as described in sub-paragraph 15.C) above, shall constitute Covenants and Restrictions ("Covenants and Restrictions") which shall run with and bind the title to the Property being sold and purchased hereunder. Furthermore, those "Covenants and Restrictions" shall be enforced by Buyer and shall inure to the benefit of and be enforceable by the Seller, or her personal or

other representative(s), designees, or assigns, or by any of her relatives by blood or marriage ("relatives"), or by any resident of the First Precinct of the Third Election District of Harford County, Maryland. The failure by the Seller or any other eligible person to enforce said Covenants and/or Restrictions, at any time, shall not be deemed a waiver of the right of the Seller or any other eligible person to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto;

- (3) In addition to all other remedies available to Seller and/or her personal or other representative(s), designees, and assigns, or her relatives, or any resident of the First Precinct of the Third Election District of Harford County, Maryland, if Buyer or its successors or permitted assigns shall violate, attempt to violate, or permit to be violated, any of the aforementioned Covenants or Restrictions, it shall be lawful for the Seller, or her personal or other representative(s), or her or their designees and assignees, or her children or step-children, or any resident of the First Precinct of the Third Election District of Harford County, to bring and prosecute such legal proceedings, including but not limited to injunctive relief, against Buyer and/or all other persons or parties violating or attempting to violate such Covenants or Restrictions as Seller or her representatives, designees, assigns, or relatives, or any said resident of the First Precinct of the Third Election District of Harford County, shall deem appropriate to prevent Buyer or others from so doing and/or to require Buyer to comply with and to enforce such "Covenants and Restrictions", and to enable Seller or such other enforcing party to recover appropriate money damages for such violation.

- (4) Invalidation by court order, judgment or

decree of any of the terms of this Agreement or of this Paragraph 15, including any of the said Covenants and Restrictions or remedies available hereunder to Seller and others, shall in no way affect any of the other terms, provisions, Covenants and Restrictions, or remedies, which shall remain in full force and effect.

16. RIGHT TO INSPECT, AUDIT, MAKE FEASIBILITY STUDY, AND INDEMNIFICATION:

- A. Except as to Buyer's entries on the "Home Parcel", for which Seller shall be entitled to three (3) days' advance notice, Seller hereby grants Buyer, and such persons as may be designated by Buyer, the right and permission, at any time after the date hereof until Closing, to enter upon the Property to inspect, appraise, and make surveys of the Property; to make test borings; and to conduct engineering studies and such other tests as Buyer may deem necessary or proper to ascertain the suitability of the Property for farming, open space and/or the recreational uses approved herein("Feasibility Study"). All such studies and tests shall be made at the sole cost and expense of Buyer and shall be performed in such manner so as not to damage the Property, or any improvements thereon, or any trees or shrubbery growing thereon. Buyer shall promptly restore the Property to its condition prior to such tests.

Furthermore, Buyer shall be fully and completely responsible for all injuries or damages resulting from the Buyer's entry on or tests of the Property. Buyer shall not interfere, in any material respect, with Seller's own use of the Property. Copies of all engineering studies, test results, and information shall be delivered promptly to Seller upon her making a written request therefor.

- B. After the date of this Agreement and prior to the Closing on August 31, 2000, Buyer, its employees, agents or contractors shall have the right to enter the Property, after reasonable notice to

Seller, to perform an environmental audit (the "Audit"). The Audit, which shall be performed by a qualified environmental consultant employed by Buyer, and at Buyer's expense, shall be for the purpose of detecting hazardous substances on the Property. Seller shall cooperate with the persons participating in the Audit by providing access to the Property and permitting the inspection of all relevant documents regarding the Property in Seller's possession and Seller's compliance with the Environmental Protection Agency's requirements and/or those state environmental standards as to which she has received written notice. Also, Buyer may conduct ground water and soil sampling tests of the Property after reasonable notice.

Upon completion of such testing, if any, Buyer shall restore the areas disturbed by such testing to their original condition and, in addition, shall promptly provide Seller with a copy of the inspector's Audit Report.

The term "Hazardous Substances", as used in this Agreement, shall mean pollutants, contaminants, toxic or hazardous wastes, or any other substances, the removal of which is required or the use of which is restricted, prohibited or penalized by applicable "Environmental Law", which term shall mean any federal, state, or local law or ordinance relating to pollution or protection of the environment.

Seller hereby agrees that after the date of this Agreement (i) no activity shall be conducted by her on the Property that will produce any Hazardous Substance; (ii) the Property will not be used in any manner for the storage of any Hazardous Substances; (iii) no part of the Property shall be used as a landfill or a dump; (iv) Seller shall not install underground tanks of any type on the Property; (v) Seller shall not allow any surface or subsurface conditions to exist or come into existence on the Property that constitute, or with the passage of time may constitute, a public or private nuisance. If, at any time during the term of this Agreement, the

Property is found to be so contaminated or subject to said conditions, which affect a substantial part of the Property, Buyer shall have the option of cancelling this Agreement, provided it does so in good faith and gives written notice of such cancellation to Seller within thirty (30) days after Buyer's receipt of the expert's written report fully describing such contamination. In addition, Buyer shall, at the same time, deliver a copy of that expert's report to the Seller. Thereupon, this Agreement shall become null and void.

However, if, notwithstanding its receipt of such an adverse report of contamination, Buyer shall fail to give Seller the required written notice of its intention to cancel this Agreement, as aforesaid, Buyer shall be deemed to have waived such right and the parties shall be obligated and bound by the terms of this Agreement as if no such contamination had been detected.

- C. Buyer shall hold Seller harmless from and against any and all claims, liabilities, or expenses of every kind or nature whatsoever arising out of any such entry upon the Property. This Section 16.C. shall survive Closing.

17. DEFAULT:

In the event of any breach, failure, or default by either Seller or Buyer in her or its performance of the terms of this Agreement required by her or it to be performed (and which breach, failure, or default is not remedied or cured by such party as herein provided (a "Default"), the non-defaulting party may pursue every right and/or remedy available to her or it, as the case may be, at law or in equity, including an action for damages and/or for specific performance.

18. NOTICES:

All notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (i) faxed and followed by hard copy, and in such case the date of delivery shall be the date of the fax; or (ii) personally delivered, in which event delivery shall be the date

of personal delivery; or (iii) sent by reputable commercial overnight delivery service, with signed receipt on the next business day, then delivery shall be on said next business day; or (iv) mailed by U. S. Certified first-class, postage prepaid, mail, return receipt requested, then delivery shall be two (2) business days after the date of the mailing.

If To Seller To:

Edith Virginia Smith
c/o Mr. and Mrs. Steven H. Graefe
1954 Mount Horeb Road
Street, Maryland 21154

With Copies To:

(1) C. Ray Mann, C.P.A.
c/o Coughlin & Mann, Chartered
16 North Main Street
Bel Air, Maryland 21014
Fax: 410-879-4528;

(2) T. Carroll Brown, Esq.
c/o Brown, Brown & Brown, P.A.
200 South Main Street
Bel Air, Maryland 21014
Fax: 410-893-0402; and

(3) John P. Evans, Esq.
c/o Whiteford, Taylor & Preston,
LLP
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
Fax: 410-832-2015

If To Buyer To:

The Honorable James M. Harkins
Harford County Executive
220 South Main Street
Bel Air, Maryland 21014
Fax: 410-

With A Copy To:

Richard G. Herbig, Esq.
Assistant County Attorney
220 South Main Street
Bel Air, Maryland 21014
Fax: 410-

19. ENTIRE AGREEMENT; COUNTERPARTS:

A. This Agreement contains the final and entire

understanding between the parties regarding the subject matter of this Agreement. There are no promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, between them, relating to this subject matter of this Agreement, other than as set forth herein.

This Agreement is intended by the parties to be an integration of all prior or contemporaneous promises, agreements, conditions, negotiations, and undertakings between them. This Agreement may not be modified orally or in any manner other than by a writing signed by all of the parties hereto or their respective successors in interest.

- B. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature of any party to any Counterpart shall be deemed a signature to, and may be appended to, any other Counterpart.
- C. To the extent that any term or condition of this Agreement is not incorporated in the deed or other Closing documents, it shall survive Closing.

20. PARTIAL INVALIDITY:

If any term, covenant, or condition of this Agreement or its application to any person or circumstance is held invalid or unenforceable, the remainder of this Agreement shall not be affected, and all remaining terms, covenants, and conditions shall be valid and enforceable to the fullest extent permitted by law.

21. GOVERNING LAW:

All questions with respect to the construction of this Agreement and the rights and liabilities of the parties shall be determined in accordance with the laws of Maryland without consideration to any conflict of laws.

22. COOPERATION:

Seller shall cooperate with Buyer, at Buyer's expense, in all aspects of Buyer's obtaining approval for Buyer's said use of the Property and for the site development plan for the Property. Seller shall execute such documents or applications as relate to the Buyer's use of the Property as may reasonably be requested by Buyer.

23. INTERPRETATION:

The paragraph headings used in this Agreement are for reference and convenience only and shall not enter into the interpretation of this Agreement. If any date upon which action is required under this Agreement is a Saturday, Sunday, or legal holiday, the date for such action shall be extended to the first regular business day after such date that is not a Saturday, Sunday, or legal holiday.

24. BINDING EFFECT AND ASSIGNMENT:

All of the covenants, conditions, and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, and to the Seller's legal representatives and assigns, and to the Buyer's successors and assigns. This Agreement may be assigned by Buyer, in whole or in part, only to the State of Maryland, and it may not otherwise be assigned by Buyer or Buyer's permitted assigns, without the prior written consent of Seller, which consent shall not unreasonably be withheld.

25. ATTORNEYS' FEES:

In the event suit is brought by either party for a breach of any provision of this Agreement, in addition to the remedies set forth in this Agreement, the prevailing party in such suit shall be entitled to recover from the losing party all actual costs and out-of-pocket expenses reasonably incurred by such prevailing party, including reasonable attorneys' fees.

26. TIME OF ESSENCE:

Time is and shall be of the essence of this Agreement.

27. SINGULAR/PLURAL:

Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.

28. APPROVAL BY HARFORD COUNTY, MARYLAND:

This Agreement shall be contingent upon its timely approval by both the Board of Estimates and the County Council of Harford County, Maryland. Buyer shall exercise its best efforts to obtain such approval on or before August _____, 2000.

29. APPROVAL BY THE BOARD OF PUBLIC WORKS OF THE STATE OF MARYLAND:

In addition to the approval required under the preceding Paragraph 28, this Agreement shall be contingent upon its timely approval by The Board of Public Works of the State of Maryland. Buyer shall exercise its best efforts to obtain such approval on or before August 15, 2000, at 5:00 p.m.

30. EXECUTION:

Unless extended by the mutual written Agreement of the parties hereto, this Agreement shall become null and void at the option of the Seller, unless it has been approved and executed by the Buyer, with at least three (3) fully signed copies being returned to Seller on or before August 16, 2000, at 5:00 p.m.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement of Sale and Purchase, as a sealed specialty, as and for the day and year first above written, and the parties hereto hereby accept, agree to, and ratify each and all of the terms of the above Agreement and acknowledge the Agreement to be their act, contract and deed.

Witness:

(Seal)
EDITH VIRGINIA SMITH

Date Executed: _____, 2000
"Seller"

Attest:

HARFORD COUNTY, MARYLAND

By: _____ (Corporate
_____) (Seal)
JAMES M. HARKINS, County Executive

Date Executed: _____, 2000

"Buyer"

APPROVED for legal sufficiency, this _____ day of _____, 2000.

RICHARD G. HERBIG, Assistant
County Attorney

APPROVED for financial sufficiency, this _____ day of _____,
2000.

JAMES M. JEWELL, Treasurer
of Harford County, Maryland

RECOMMENDED for approval, this _____ day of _____, 2000.

JOSEPH E. PFAFF, Director
Department of Parks & Recreation

RECOMMENDED for approval, this _____ day of _____, 2000.

JOHN J. O'NEILL, Director of
Administration
Department of Procurement

RECOMMENDED for approval, this _____ day of _____, 2000.

LUCY LIGHT SLAICH, Secretary of the
Board of Estimates of Harford
County, Maryland

STATE OF MARYLAND, COUNTY OF HARFORD, To Wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2000, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared EDITH VIRGINIA SMITH, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing Agreement of Sale and Purchase, as the Seller, and she acknowledged that she executed the same for the purposes therein contained, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Notary Public

My Commission Expires:

STATE OF MARYLAND, COUNTY OF HARFORD, To Wit:

I HEREBY CERTIFY, that on this _____ day of _____, 2000, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared JAMES M. HARKINS, who acknowledged himself to be the County Executive of Harford County, Maryland, and that he, as such officer, being authorized so to do, executed the foregoing Agreement of Sale and Purchase, as the Buyer, for the purposes therein contained, by signing the name of the Corporation, by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Notary Public

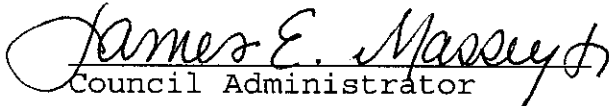
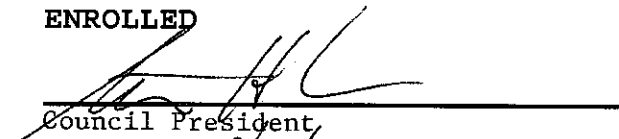
My Commission Expires:

(Title) Installment Purchase Agreement - Smith property

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

ENROLLED


Council Administrator
Council PresidentDate 8-8-00Date 8/8/00

BY THE COUNCIL

Read the third time.

Passed: LSD 00-23 (August 8, 2000)

Failed of Passage: _____

By Order


Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 10th day of August 2000, at 3:00 p.m.


Council Administrator

BY THE EXECUTIVE


COUNTY EXECUTIVEAPPROVED: Date 8-10-00

BY THE COUNCIL

This Bill (No. 00-25, as amended), having been approved by the Executive and returned to the Council, becomes law on August 10, 2000.


Council Administrator

EFFECTIVE DATE: October 10, 2000